



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20430

June 7, 1999

W.T. Frady, Sr. Engineer
South Carolina Electric & Gas Company
111 Research Drive
Columbia, SC 29203

OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

Dear Mr. Frady:

This letter responds to your May 6, 1999 letter to Larry Reisman of the Toxics Release Inventory Branch in which you ask for guidance concerning the applicability of section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) to your facility. Specifically, this letter addresses how your facility should report the off-site transfer of toxic chemicals in ash that is incorporated into a fertilizer product or a topsoil product. According to your letter the ash is blended on-site with previously composted sewage sludge, chicken litter and wood shaving materials (Carolina Compost) to form a blended agricultural material ("COM-ASH"), which you then distribute into commerce. In a follow-up telephone conversation you stated that the factor determining whether the product distributed into commerce is a fertilizer or a topsoil product is the percentage of ash incorporated into the product.

As you are aware, page 3-49 of the EPCRA Section 313 Industry Guidance for Electricity Generating Facilities (January 1999; EPA 745-B-99-003) states:

A facility distributes ash (which meets industry specifications) containing EPCRA Section 313 chemicals into commerce for use in the manufacture of concrete. This activity constitutes a processing activity, and the *de minimis* exemption applies to amounts of EPCRA Section 313 chemicals in the ash distributed into commerce, and to releases and other waste management activities associated with this processing activity.

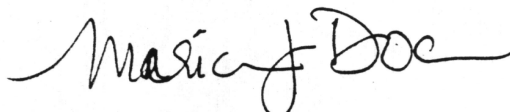
EPCRA Section 313 chemicals in ash sent off-site for use as roadfill, landfill, and in mining reclamation are being managed as a waste; therefore they are not eligible for the *de minimis* exemption.

The toxic chemicals in ash being sent off-site for use as roadfill, landfill, and in mining reclamation are being disposed of off-site. Therefore, the toxic chemicals in the ash are being managed as a waste and these toxic chemicals are not eligible for the *de minimis* exemption. However, the toxic chemicals in the ash transferred off-site for incorporation into concrete are being processed because the ash, which must meet certain specifications, is being distributed into commerce and is being mixed, blended, and incorporated into concrete. Therefore, these toxic chemicals should be considered toward processing thresholds. The *de minimis* exemption may

be considered for toxic chemicals in ash that is transferred off-site for incorporation into concrete. In addition, EPA would consider the toxic chemicals in the ash that is incorporated into fertilizer and/or topsoil products (which are then distributed into commerce) as being processed and the *de minimis* exemption may be considered for these toxic chemicals.

I hope this information is helpful to you in making threshold determinations and release and other waste management calculations for section 313 of EPCRA. If you have any other questions, or desire further information, please call either Larry Reisman at 202.260.2301 or me at 202.260.9592.

Sincerely,

A handwritten signature in cursive script, reading "Maria J. Doa". The signature is fluid and elegant, with a long horizontal flourish extending to the right.

Maria J. Doa, Ph.D., Chief
Toxics Release Inventory Branch